

County of Los Angeles
DEPARTMENT OF PUBLIC SOCIAL SERVICES

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June 16, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**RECOMMENDATION OF BOARD APPROVAL ON MAKING THE BACK-UP
ATTENDANT PILOT PROGRAM A PERMANENT PROGRAM AS PART OF
AGREEMENT 72426 BETWEEN THE COUNTY OF LOS ANGELES AND THE
PERSONAL ASSISTANCE SERVICES COUNCIL AND RENAMING IT
BACK-UP ATTENDANT PROGRAM
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

SUBJECT

Board approval is requested to make the Back-Up Attendant Pilot Program (BUAPP) a permanent program as part of Agreement 72426 between the County of Los Angeles and the Personal Assistance Services Council (PASC) and that it be renamed the Back-Up Attendant Program (BUAP).

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and authorize the Director of the Department of Public Social Services to sign and execute an amendment, substantially similar to the one attached, making the BUAPP a permanent program as part of Agreement 72426 between the County of Los Angeles and the PASC and rename it BUAP.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Over 181,000 aged, blind, and disabled individuals in Los Angeles County are able to remain safely in their own homes with the assistance of the In-Home Supportive Services (IHSS) program. Many of the severely impaired IHSS consumers depend on their IHSS providers' assistance to complete most activities of daily living, but when they are deprived of their providers' assistance, many face immediate isolation and significant risk of illness and injury.

These conditions often lead to costly emergency services, such as hospitalization and/or institutionalization. To ensure that IHSS consumers with severe disabilities can continue to remain safely at home, we recommend making the BUAPP a permanent program as part of the PASC's operating structure.

The BUAPP was created in 2006 to assist IHSS consumers with severe disabilities on an urgent basis when their regular provider is temporarily unavailable. In April 2007, the PASC began operating the BUAPP to provide readily available homecare attendants to Los Angeles County's most vulnerable and severely disabled IHSS consumers. In April 2008, the Board extended the BUAPP until June 30, 2009 to continue supporting IHSS consumers while the PASC continued gathering outcome data for the pilot's evaluation.

PASC hired RTZ Associates, Incorporated to evaluate the BUAPP. According to RTZ, the BUAPP provides crucial services to a number of IHSS consumers and is useful and cost effective.

Originally, 6,300 IHSS consumers met the eligibility criteria for the BUAPP (i.e., authorized 35 hours or more of personal care services such as bowel and bladder care, feeding, bathing, etc. per week.) Because BUAPP's utilization was low, the PASC requested that the criteria be lowered to 25 hours or more of personal care services per week to increase the amount of potentially eligible consumers, thereby increasing its usage. As a result, in October 2007 the criteria were changed and an additional 6,000 IHSS consumers became eligible and were notified of its availability. Of those who have been notified, 789 have actually registered with the PASC in the event they need back-up services. To date, about 100 IHSS consumers have utilized the BUAPP. Currently, there are approximately 20,000 IHSS consumers who meet the eligibility criteria.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended action is consistent with the principles of the Countywide Strategic Plan, Goal 1, Service Excellence to ensure that service delivery systems are efficient, effective and goal oriented by assisting the most vulnerable IHSS consumers to remain safely in their own homes.

FISCAL IMPACT/FINANCING

The net County cost (NCC) for Fiscal Year (FY) 2008-09 is estimated at \$1,000. The total estimated costs for the BUAPP for FY 2009-10 is \$11,000, with an NCC of \$4,000. This includes the State trigger due to take effect July 1, 2009, which reduces the State's share in wages to \$9.50 per hour and the Governor's May Revise proposal due to take effect October 1, 2009, which would reduce the State's share in wages to \$8.00 per hour. Funding for the program was requested during Final Changes. It is important to note that as our population ages and our IHSS caseload continues growing at a rate of 6% per year, more consumers will become eligible for the BUAPP, which could result in an increase in NCC.

BUAPP providers earn a rate of \$12.00 per hour, as opposed to the \$9.00 per hour regular providers earn. The base rate amount within the BUAPP (\$9.00 per hour) is funded from the regular IHSS program budget. The additional \$3.00 per hour is paid from funding set aside for the BUAPP.

Effective July 1, 2009, based on the Governor's Proposed Budget, the State will reduce its maximum participation for provider wages, including the BUAPP, to \$9.50 per hour. Due to this State trigger, the County will have to absorb the State's share above the State maximum participation of \$9.50 per hour. The total cost of the program will be \$8,000, with an NCC of \$3,000.

In the May Revise, the Governor proposed reducing the State's share of wages to \$8.00 effective October 1, 2009. If his proposal is enacted, the County would have to absorb the State's share of the BUAPP wage over the \$8.00 per hour. The total cost of the program will be \$11,000, with an NCC of \$4,000.

FACTS AND PROVISIONS/ LEGAL REQUIREMENTS

On September 14, 1999, the County entered into Agreement 72426 with the PASC pursuant to Los Angeles County code 3.45.130 to specify the purposes, scope or nature of the agreement, the roles and responsibilities of each party, including provisions which ensure compliance with all applicable State and federal labor laws, and compliance with all statutory and regulatory provisions applicable to the delivery of IHSS. Amendment Number 10, approved on August 10, 2006, implemented a Back-Up Attendant Pilot Program in Los Angeles County. Amendment Number 12, approved April 16, 2008, extended the Back-Up Attendant Pilot Program to June 30, 2009.

Welfare & Institutions Code Section 12306.1 requires that when a Public Authority (PA)/ Nonprofit Consortium (NPC) Rate increase is requested, that each County Board of Supervisors approve the rate increase and funding to cover both the county's share and the State's share, including wages and related expenditures until State approval is received. Because the BUAPP was a pilot program which was to end June 30, 2009 and because of the trigger cuts, the State requested that a new request to continue the BUAPP PA/NPC rate be submitted by June 1, 2009. DPSS has submitted a letter of intent to continue with the BUAPP PA/NPC rate and documentation requested by the State to process the rate. Should your Board decide to approve making the BUAPP a permanent program, the State will be provided with a copy of the approved Board Letter.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The recommended action will continue to support IHSS consumers with severe disabilities to remain safely at home.

CONCLUSION

Upon Board approval and execution, the Executive Office, Board of Supervisors, is requested to return one adopted stamped Board Letter to the Department of Public Social Services.

Respectfully submitted,



Philip L. Browning
Director

PLB:MC:sp

Attachment

c: Chief Executive Officer
Acting County Counsel
Executive Officer, Board of Supervisors



AMENDMENT NUMBER 16

TO

**AGREEMENT No. 72426 BETWEEN
COUNTY OF LOS ANGELES
AND
PERSONAL ASSISTANCE SERVICES COUNCIL (PASC)**

June 2009

**AMENDMENT NUMBER 16
TO
AGREEMENT NO. 72426 BETWEEN
COUNTY OF LOS ANGELES
AND
LOS ANGELES COUNTY PERSONAL ASSISTANCE SERVICES COUNCIL**

THIS AMENDMENT is made and entered into this _____ day of June 2009 by and between the County of Los Angeles, hereinafter referred to as COUNTY, and the Los Angeles County Personal Assistance Services Council ("PASC").

WHEREAS, reference is made to the document entitled "AGREEMENT BY AND BETWEEN COUNTY OF LOS ANGELES AND LOS ANGELES COUNTY PASC," dated September 14, 1999, and further identified as County Agreement No. 72426, Amendment Number 1, dated October 24, 2000, Amendment 2 dated, October 24, 2000, Amendment Number 3 dated November 20, 2002, Amendment Number 4, dated June 22, 2004, Amendment Number 5, dated October 28, 2004, Amendment 6, dated June 30, 2005, Amendment 7, dated July 28, 2005, Amendment 8, dated October 26, 2005, Amendment 9 dated June 29, 2006, Amendment 10 dated August 10, 2006, Amendment 11 dated March 30, 2007; Change Notice #1 dated October 16, 2007; Amendment 12 dated April 16, 2008; Amendment 13 dated June 25, 2008, Amendment 14 dated March 2, 2009, and **Amendment 15 dated _____** referred to as "Agreement."

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

NOW THEREFORE, the parties hereby agree as follows:

This Amendment shall become effective upon execution by both parties.

- I. Section II, **CONTRACT PERIOD**, paragraph 4 is replaced with the following:

The Back-up Attendant Pilot Program (BUAPP) will no longer be considered a *pilot* program, but instead be made a permanent program under the current Agreement 72426, unless terminated or extended, in whole or in part, as provided in Agreement 72426. The program will be renamed the Back-up Attendant Program (BUAP). The PASC shall continue to comply with the requirements as defined in **Attachment A, Statement of Responsibilities**, Section 8.0.

- II. Section II, **CONTRACT PERIOD**, paragraph 5 is deleted in its entirety.

**AMENDMENT NUMBER 16
TO
AGREEMENT NO. 72426 BETWEEN
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- III. Section IV, **FISCAL PROVISIONS**, subparagraph 4.0.6 and 4.0.6.1 are deleted in their entirety and replaced with the following:

4.0.6 Effective with the execution of this Amendment 16, the COUNTY'S appropriation for the PASC negotiated wage, for providers who provide Back-Up Attendant Program services, shall be \$12.00 per allowable hour, which is higher than the current hourly wage rate of \$9.00. This amount is an absolute limit, and the COUNTY is not obligated in any way to pay or subsidize beyond this negotiated Back-Up Attendant Program hourly rate of \$12.00.

4.0.6.1 In the event the State's share of wages pursuant to Welfare and Institutions Code §12306.1 is not forthcoming or in any way becomes unavailable, the COUNTY'S above stated obligation for any wage above minimum wage, like that of Back-Up Attendants' hourly rate of \$12.00 or capitation payments, shall terminate, whether or not the COUNTY reached its maximum allocation of funds for any fiscal year, as set forth in subparagraph 4.0.6 above and 5.6 below. Both parties further agree that Welfare and Institutions Code §12306(c)(3) does not obligate the County in any way or at any time to fund the State share of wages or capitation payments negotiated pursuant to Welfare and Institutions Code §12306.1.

- IV. Section IV, **FISCAL PROVISIONS**, paragraph 5.6 and 5.7 are deleted in their entirety and replaced with the following:

5.6 Effective July 1, 2009 through June 30, 2010, the total cost to continue the BUAP will be \$8,000 (\$3.00 differential between the \$12.00 BUAP rate and the regular pay rate of \$9.00), partially offset by State and Federal Revenue, with a Net County Cost (NCC) of \$3,000. The COUNTY agrees to allocate the \$3,000 in NCC for provider compensation related to the BUAP. The costs for the BUAP services subject to this section are to cover provider compensation related to the program except for health care plan administrative costs as set forth in paragraph 4.3.1 above.

5.7 Effective July 1, 2009, the PASC will continue to assume all administrative costs related to the BUAP as part of their regular contract.

**AMENDMENT NUMBER 16
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AGREEMENT NO. 72426 BETWEEN
COUNTY OF LOS ANGELES
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V. Section IV, **FISCAL PROVISIONS**, paragraph 5.9 is newly added as follows:

5.9 In the event the County cannot continue to financially support the BUAP, DPSS shall inform the PASC, no later than 30 days prior, of DPSS' intent to request that the Board of Supervisors terminate the BUAP. Prior to submitting that request, DPSS shall have included the PASC in DPSS' reevaluation of the program to determine the feasibility of its continuation.

VI. **Attachment A, Statement of Responsibilities**, subparagraph 8.11.1 is deleted in its entirety.

VII. **Attachment A, Statement of Responsibilities**, subparagraph 8.12.7 is revised as follows:

8.12.7 The PASC and the County shall periodically review the number of consumers served and the usage patterns as a part of the monitoring process. As to consumers who are making frequent use of the program, consideration will be given to strategies to assist the consumers in establishing alternative solutions (e.g., assist the consumer in seeking DPSS review of his/her number of authorized hours or assist the consumer in the use of the PASC Registry to locate more reliable permanent providers). COUNTY and PASC may also examine patterns of use and modify the Back-Up Attendant Program accordingly.

All other remaining provisions established pursuant to Amendments 10 and 12 are hereby amended to change BUAPP to BUAP.

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IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be signed by the Director of the Department of Public Social Services and the PASC has caused this Contract to be signed by its duly authorized officer(s), on the _____ day of June 2009.

COUNTY OF LOS ANGELES

By _____
Philip L. Browning, Director
Department of Public Social Services

PERSONAL ASSISTANCE SERVICES COUNCIL

By _____
Chris Otero, Chair
PASC Governing Board

APPROVED AS TO FORM:
Robert E. Kalunian, Acting County Counsel

By _____
Dawyn R. Harrison
Principal Deputy Counsel